

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

In re:

Brandon Heitmann,  
Debtor.

Chapter 13  
Case No. 24-41956  
Hon. Mark A. Randon

**DEBTOR'S STATUS REPORT ON PENDING MOTIONS AND MATTERS  
BEFORE THE COURT ON DECEMBER 18, 2024**

Debtor states as to the status of the 3 pending matters before the Court on  
12.18.2024.

**1. Debtor's application to employ Kotz Sangster as special counsel.**

Debtor has prepared the proposed Order that comports with the discussion at the prior hearing, will file the stipulation in support of entry of the proposed Order, an amended verified declaration of Kotz Sangster through Tyler Phillips, and a Declaration by Debtor's spouse indicating she has no claims against the Debtor and that if she did, they are being waived. The guts of the proposed Order follows:

"NOW, THEREFORE, IT IS HEREBY ORDERED that the Application is granted subject to the requirements in the Application, and subject to the following: During the pendency of the chapter 13 bankruptcy case, Guarantor shall pay all legal fees and expenses of Kotz Sangster, and neither Debtor nor his spouse nor her company, Resilient Outdoor Living, shall pay those legal fees and expenses, and Guarantor shall not seek reimbursement or contribution from the bankruptcy estate or from the debtor or debtor's spouse or her company, Resilient Outdoor Living."

**2. Confirmation Hearing**

The Trustee has supplied a summary of the Trustee's objections to confirmation. A description of the Trustee's specific issues referenced in the Summary and the Debtor's response follows:

A. The State of Michigan has filed a Notice of Unfiled Returns for the 2022 return which has not been withdrawn.

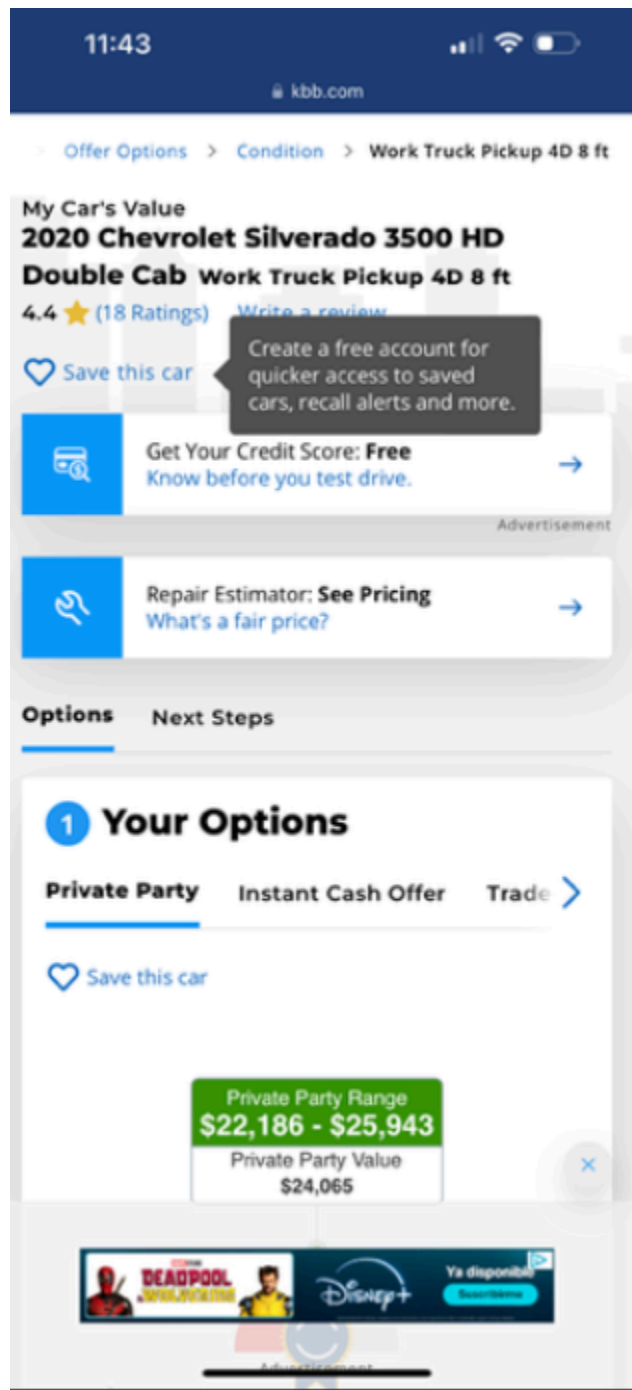
**Debtor's counsel contacted Heather Donald who represents the State of Michigan, and Ms. Donald indicated she was going to withdraw her Notice of Unfiled Returns.**

B. Verification of valuation for equipment.

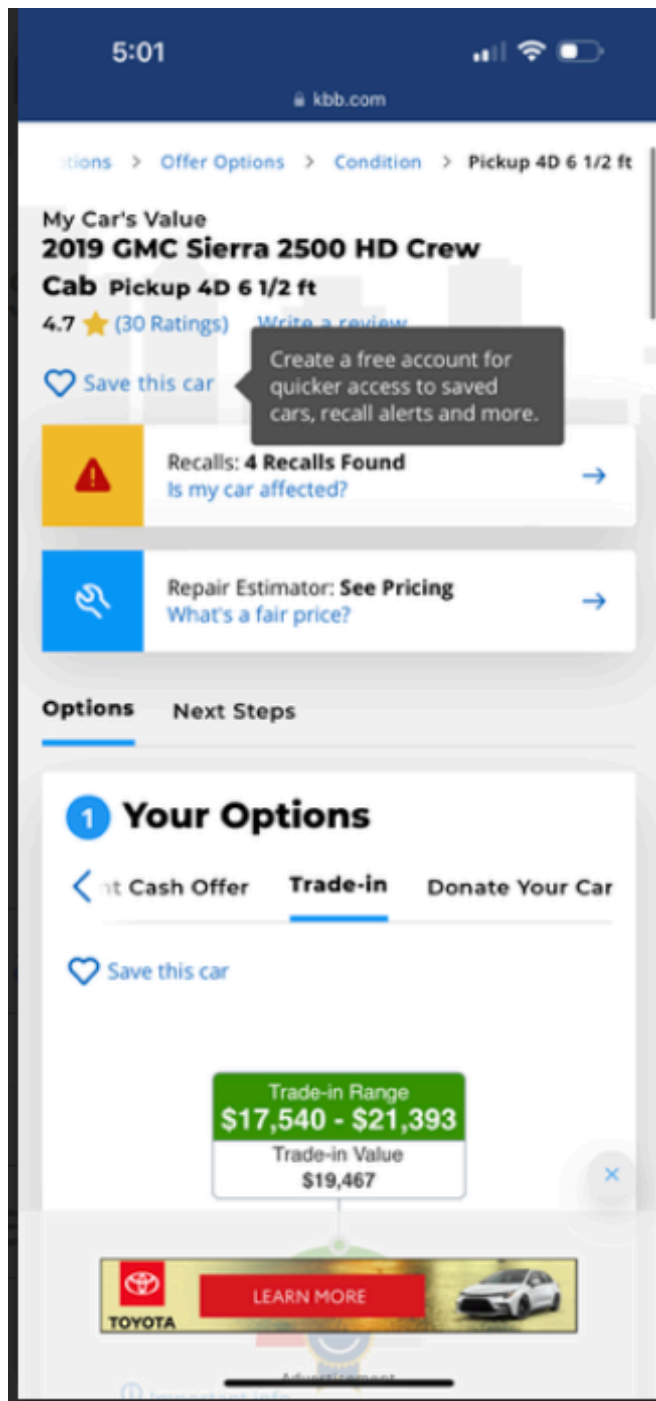
**A table of the following equipment that Debtor owns follows, in addition to KBB snapshots regarding valuation of the equipment for which Kelley Blue Book (KBB) provides valuations:**

<b>Equipment</b>	<b>Listed Value in Plan</b>	<b>Basis for Valuation</b>
2020 GMC 4500 Dump Truck	30,000.00	See accompanying KBB value for range of \$22,183 to \$25,943 (KBB did not have an option for a 4500 so used 3500 for most comparable model)
2017 20 foot enclosed Look Trailer	1,000.00	based on damaged condition and work needed on it
Toro Dingo	5,000.00	based on damaged condition (hydraulic motor and extensive repairs)
GM Financial 2500	15000	See accompanying KBB for \$17,540 to \$21,393; owe more to GM Financial per POC number 5-1 (\$20,542.43 per POC).
Econoline Van	400	rusty and nonworking, salvage value
Box Truck	400	rusty and nonworking, salvage value

## Dump truck valuation:



## 2019 Silverado valuation:



C. Disclosure of prepetition settlement of prepetition claims by third party using third party funds

Debtor does not believe that a third party's settlement of prepetition claims against the Debtor and others, where the monies were not property of the Debtor or his spouse or of the estate, would need to be disclosed on the Schedules or Statement of Financial Affairs. As indicated in the response to the motion to dismiss filed by Creditor Saad, the fact of the Hebeka and Regalado prepetition litigation was disclosed in the Statement of Financial Affairs question number 9:

REGALADO, JOE vs. Debtor, et al 2023-000982-CZ	Macomb County Circuit Court	<input type="checkbox"/> Pending <input type="checkbox"/> On appeal <input checked="" type="checkbox"/> Concluded
MARTIN, MATTHEW v Debtor, et al 2023-002737-CB	Macomb Circuit Court	<input type="checkbox"/> Pending <input type="checkbox"/> On appeal <input checked="" type="checkbox"/> Concluded

Official Form 107                      Statement of Financial Affairs for Individuals Filing for Bankruptcy                      page 3

Debtor 1 <b>Brandon L. Heitmann</b>		Case number (if known) <b>24-41956</b>	
Case title Case number Jennifer Hernandez v Debtor [dismissed]	Nature of the case	Court or agency	Status of the case <input type="checkbox"/> Pending <input type="checkbox"/> On appeal <input type="checkbox"/> Concluded
Joe and Angela <b>Hebeka</b> v Debtor			<input type="checkbox"/> Pending <input type="checkbox"/> On appeal <input checked="" type="checkbox"/> Concluded

10. Within 1 year before you filed for bankruptcy, was any of your property repossessed, foreclosed, garnished, attached, seized, or levied?  
Check all that apply and fill in the details below.

D. Income verification

Debtor has uploaded the recent pay stubs for both the debtor and his non-filing spouse, in addition to business bank statements to verify the household income.

E. Amendment to Plan

Debtor has filed a third amended plan to address what it believes are the Trustee's plan related issues, however, it appears that the reference in the third amended plan to a "GMAC Financial 2019 GMC 2500", should be "~~GMAC~~ Financial 2019 ~~GMC~~ *Silverado* 2500". Debtor will make the appropriate change.


Status of IRS Proof of Claim

Debtor transmitted his amended 2021 return, which was accepted by the IRS as indicated below:

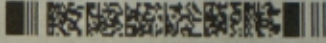
T = Transmitted 6/28/24

F = Federal Return accepted by IRS 6/28/24

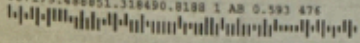
It is Debtor's counsel's understanding that the IRS is in the process of amending their proof of claim as it relates to the 2021 personal tax obligations of Debtor. A copy of the most recent communication received by Debtor from the IRS directly indicates that a refund will be made, which will increase the ability of the Debtor to fund his chapter 13 plan.



Department of the Treasury  
Internal Revenue Service  
Austin, TX 73301-0025



087175.488851.318490.8188 1 AB 0.593 476



BRANDON L HEITMANN  
60749 FOREST CREEK DR  
WASHINGTON MI 48094-1846

087175

Notice	CP21B
Tax Year	2021
Notice date	October 28, 2024
Social Security number	XXX XX 8602
To contact us	800-829-8374
Your Caller ID	001447
Page 1 of 2	9H

Changes to your 2021 Form 1040

**Refund due: \$35,106.88**

We made the changes you requested to your 2021 Form 1040 to adjust your:

- self-employment tax
- net investment income tax
- qualified business deduction

As a result, you are due a refund of \$35,106.88.

**Summary**

Account balance before this change	\$ 126,693.03
Decrease in tax	-159,282.00
Decrease in failure-to-pay penalty	-1,592.82
Decrease in interest	-925.09
<b>Refund due</b>	<b>\$35,106.88</b>

**What you need to do**

**If you agree with the changes we made**

- If you haven't already received a refund for \$35,106.88, you should receive a refund check within 2-3 weeks as long as you don't owe other tax or debts we're required to collect. Your refund amount may include interest. Keep in mind that any interest you receive on tax refunds is considered taxable income during the year you receive it.

**If you don't agree with the changes**

Call 800-829-8374 to review your account with a representative. Be sure you have your account information available when you call.

If we don't hear from you, we'll assume you agree with the information in this notice.

**Penalties**

*Failure-to-pay penalty removed*

We are required by law to charge any applicable penalties.

We removed the penalty we previously charged you.

## Payments to chapter 13 trustee

Debtor's records show that he has paid \$6,324.24 into the chapter 13 trustee's account via TFS Online. The amount of the plan payments in the second and third amended plans were \$481.06 per month. Plan payments would thus have been due for March through November for Debtor based

on his 2.29.2024 filing date, and thus the amount paid into the plan is more than the amount of the number of months times the plan payments under the second and third amended plan which would be  $9 \times 481.06 = 4329.54$ . Debtor's latest amended plan proposes that any plan arrearages based on the initial payment order be waived. The payments sent through TFS, which includes fees for TFS follow:

To Trustee	
Amount	Date
\$ 4,007.99	5/21/2024
\$ 201.99	6/13/2024
\$ 201.99	7/10/2024
\$ 201.99	8/12/2024
\$ 201.99	9/13/2024
\$ 1,049.17	10/15/2024
\$ 484.05	11/19/2024
<b>TOTAL</b>	<b>\$ 6,349.17</b>

### 3. Creditor Saad's Motion to Dismiss

Debtor believes that Creditor Saad's motion to dismiss raises factual issues which perhaps can be most efficiently handled at mediation with a mutually agreed to mediator. Based on undersigned counsel's experience, mediation is typically very highly effective and at less cost than full blown litigation. Debtor also disputes that there is any liability to Mr. Saad because he committed the first material breach of the agreement, that there is no violation of the Michigan Builders Trust Fund Act, etc. which are issues in the pending adversary proceeding.

Debtor does not believe that Creditor Saad will be able to meet its burden at the pending motion hearing, and that an evidentiary hearing would likely be required absent a successful mediation. In any event, the requested relief of a 2 year bar is beyond what the bankruptcy code would provide in 11 U.S.C. section 109(g).



Respectfully submitted,

\_\_\_\_/s/ Robert Bassel \_\_\_\_\_  
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